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VIA E-MAIL

Samir Bukhari, Esq.
U.S. EPA, Region I (OARMO 1-6)
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RE: Freedom of Information Requests Nos. 01-FOI-00252-12; 01-FOI-00253-12; 01-FOI-00254-12; 01-FOI-00255-12; 01-FOI-00256-12; 01-FOI-00257-12; 01-FOI-00258-12; 01-FOI-00259-12; 01-FOI-00260-12; 01-FOI-00261-12; 01-FOI-00262-12; 01-FOI-00263-12; 01-FOI-00264-12; 01-FOI-00265-12; 01-FOI-00266-12; 01-FOI-00267-12; 01-FOI-00268-12; 01-FOI-00269-12

Dear Mr. Bukhari:

In Stephen Perkins' October 22, 2012 letter in reference to the FOIA requests listed above, EPA Region I "concluded these request do not reasonably describe the records being sought as required by 40 C.F.R. § 2.102(c) and are improper." While we disagree that there was any uncertainty regarding the records that were requested or that the Region may deny FOIA action due to the scope of the search requested, to enable the Region to promptly respond, we would like to clarify the scope of the documents and search we are seeking.

For the past two years, Region I and the Great Bay Communities have corresponded about the Region's (and DES') belief that a transparency-based 0.3 mg/l TN instream requirement and stringent TN reduction requirements are necessary to allow recovery of eelgrass in the tidal rivers and Great Bay. The specific scientific issues identified in the individual FOIA documents have been part of the permit comments for the past year and a half. The Region has attended several public presentations where these issues have been repeatedly raised. Therefore, it is rather surprising that the Region indicates that it lacks an understanding of the issues presented and has yet to identify where in the agency's records these issues are addressed. In any event, the FOIA requests at issue specifically concern technical issues also previously raised by the Coalition in its science misconduct letter submitted to EPA Headquarters on May 4, 2012, and supplemental correspondence to Ms. Ellen Gilinsky. Ms. Stoner responded, in a letter dated

September 27, 2012, stating there is no evidence that Region I has engaged in scientific misconduct but failed to provide any documentation supporting this position. Moreover, not a single scientific issue presented in the original or subsequent correspondence to EPA and the Inspector General's Office was addressed in Ms. Stoner's response.

During EPA Headquarters' investigation into the science misconduct allegations submitted by the Coalition, the Region would have had to submit records showing that the specific allegations made by the Coalition were incorrect. Under this FOIA, we are looking for the documents that Region I would have had to have sent EPA Headquarters refuting the Coalition's specific scientific allegations. Therefore, there are only three possible outcomes to this FOIA request:

- (1) EPA HQ did not ask the Region to produce any materials demonstrating that specific technical issues raised by the Coalition were in error (therefore, no responsive documents exist);
- (2) EPA HQ asked for documents on specific issues and those documents provided to EPA HQ are readily available; or
- (3) EPA HQ asked the Region for documents verifying the specific technical issues were in error but the Region was unable to locate such information (In which case the Region's correspondence to EPA HQ confirming that contrary information does not exist should be provided).

Based on this clarification, Region I does not need to "examine thousands of pages of records within the agency to ascertain whether any information in them can be construed as relevant to the statements made in the FOIA request." We are simply asking for the specific documents that Region I may have already gathered and sent to EPA Headquarters during EPA Headquarters' investigation into the Coalition's allegations of science misconduct on specific issues identified in each of the individual FOIA requests. If you have any further questions regarding these requests, please do not hesitate to contact this office so as to ensure that agency resources are conserved and only the necessary documents are reproduced.

Sincerely,

/s/ John C. Hall

JOHN C. HALL

Cc: Stephen Perkins, EPA Region 1, Director Office of Ecosystem Protection
Dan Arsenault, EPA Region 1
Cristeen Schena, EPA Region 1 FOIA Officer